

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 300 of 1994

with

APPEAL FROM ORDER No 347 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

CANARA BANK

Versus

M/S CONCEPT CPMPUTERS PVTLTD & 6

Appearance:

MR SURESH M SHAH for Appellant
MR AM KAPADIA for MR SB VAKIL for Respondents No.1, 4-6
MR MC BHATT for Respondents No. 1,2,3
MR MANISH R BHATT for Respondent No. 7

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 07/03/2002

COMMON ORAL JUDGEMENT

1. Heard Mr.S.M.Shah, learned advocate for the appellant, Mr.A.M.Kapadia, learned advocate for and on

behalf of Mr.S.B.Vakil, learned senior advocate for respondent Nos.1, 4, 5 and 6, Mr.M.C.Bhatt, learned advocate for the respondent Nos.1, 2 and 3 and Mr.Manish R. Bhatt, learned advocate for the respondent No.7.

2. Mr.S.M.Shah, learned advocate for the appellant tenders a document received from the appellant - Bank. It is taken on record.

3. The learned advocates appearing on behalf of both the parties jointly submit that consensus has been arrived at between all the parties and, therefore, final order be passed as per their terms of settlement. As per terms suggested by them jointly, these appeals stand disposed of with following order.

4. Appeal from Order No.300 of 1994 is preferred by the Canara Bank challenging the order passed by the Learned Auxiliary Chamber Judge, City Civil Court No.22, Ahmedabad on Exhibit Nos.35 and 54 in Civil Suit No.2534 of 1991, whereby the applications came to be rejected. Appeal from Order No.347 of 1994 is preferred by The Kalupur Commercial Co-operative Bank challenging the observations made by the Learned Judge below Ex.35 and 54.

5. It has been brought to the notice of the Court by the contesting parties that the Civil Suit No.2534 of 1991 has since been transferred to the Debt Recovery Tribunal, Ahmedabad.

6. In the facts and circumstances of the case, the following directions are given.

[a] M/s.Concept Computers Pvt. Ltd. the borrower is represented by rival parties claiming to be the Directors and in management of the Company. These parties, namely, Shri Nimesh Sheth, Shri Dipak Shah, Shri Rakesh Patel, Shri Virendra Pandit and Shri Paresh Patel may make efforts to recover dues from :-

1. Gujarat Water Supply and Sewerage Board.
2. N.I.D.C.
3. Income Tax Department.
4. Town Planning Officer, Ahmedabad.
5. Settlement Commissioner, Apna Bazar, Ahmedabad.
6. ESIC, Ahmedabad.
7. Urban Department, Gandhinagar.
8. Gujarat Computer Centre, Gandhinagar.
9. Education Department, Gandhinagar.
10. Social Welfare Department, Gandhinagar.

11. Forensic Laboratory, Ahmedabad.
12. District Development Officer, Dang.

And other debtors of respondent No.1 - Company as also prayed in Ex.35 and 54 in Appeal from Order No.300 of 1994.

For this purpose Shri Nimesh Sheth and Shri Rakesh Patel or any authorized person, are hereby jointly appointed as Court receivers to approach the debtors of the respondent No.1 - Company and to realize the monies due, with full authority to give effectual receipts, discharge and compromise. On receipt of the monies, the same shall be deposited with the DRT, Ahmedabad, who in turn shall invest in a Fixed Deposit, till the disposal of the suit. The Fixed Deposit shall be placed in any Nationalized Bank other than the two contesting Banks.

[b] The respondent No.7 in Appeal from Order No.300 of 1994 i.e. The Kalupur Commercial Co-operative Bank shall make an application to Debts Recovery Tribunal for being impleaded in the Civil Suit No.2534 of 1991 filed by the Canara Bank and which has since been transferred to Debts Recovery Tribunal and the Tribunal shall implead Kalupur Commercial Co-operative Bank as respondent in the peculiar facts and circumstances of this case.

[c] The Debts Recovery Tribunal, Ahmedabad shall make all endeavours to dispose of Civil Suit No.2534 of 1991 expeditiously.

[d] The Debts Recovery Tribunal shall also decide the rival claims of Canara Bank and Kalupur Commercial Co-operative Bank with regard to their entitlement out of the monies realized and the decision on this behalf by D.R.T. shall be binding to all the parties to this proceeding, subject to any appeal etc. being filed by any aggrieved party under "The Recovery of Debts Due to Banks and Financial Institutions Act, 1993."

[e] The status-quo against disposal of other properties of Concept Computers Pvt. Ltd. granted by the Civil Court shall continue till disposal of the application by the D.R.T.

7. In view of the directions given by this Court at the instance of both the parties, these two appeals stand disposed of. The impugned order is substituted by this present order. No order as to costs.

(H.H.Mehta, J.)

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